

AMENDED IN SENATE JUNE 28, 2012

AMENDED IN SENATE JUNE 19, 2012

SENATE BILL

No. 1403

Introduced by Senator Yee

February 24, 2012

~~An act to amend Section 54952 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately. An act to amend Section 1946.7 of the Civil Code, and to amend Section 1161.3 of the Code of Civil Procedure, relating to domestic violence, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1403, as amended, Yee. ~~Local government meetings: legislative body: definition. Domestic violence: permanent restraining orders and elder abuse orders.~~

Existing law authorizes a tenant to notify the landlord in writing that he or she or a household member, as defined, was a victim of an act of domestic violence, sexual assault, or stalking and intends to terminate the tenancy, and requires that the tenant attach a copy of a temporary restraining order, emergency protective order, or a report by a peace officer to the notice. Existing law permits the tenant to quit the premises after notification and limits the tenant's obligation for payment of rent, as specified. Existing law requires the notice to terminate the tenancy to be given within 180 days of the date the order was issued or the report was made, or as specified.

This bill would include a copy of a permanent restraining order or an elder abuse order among the approved documents required to be

provided to the landlord with a notice to terminate a tenancy under the above provisions.

Existing law prohibits a landlord from terminating a tenancy or failing to renew a tenancy based upon an act of domestic violence, sexual assault, or stalking against a protected tenant, as defined, or a protected tenant's household member when that act is documented by a temporary restraining order, emergency protective order, or a written report, as specified, and the person who is restrained from contact with the protected tenant under the protection order or is named in the police report of that act is not a tenant of the same dwelling unit.

This bill would include permanent restraining orders and elder abuse orders among the documents that may be provided to establish domestic violence, sexual assault, or stalking against a protected tenant or a protected tenant's household member under the above provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law, the Ralph M. Brown Act, requires each legislative body of a local agency to provide the time and place for holding regular meetings and requires that all meetings of a legislative body be open and public and all persons be permitted to attend unless a closed session is authorized. Existing law defines for these purposes the term "legislative body" and includes within that definition a board of a local agency.~~

~~This bill would modify the definition of the term "legislative body" to include an assessment appeals board, as specified. By extending open meeting requirements to proceedings of assessment appeals boards, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~yes~~-no.

State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 1946.7 of the Civil Code is amended to*
2 *read:*

3 1946.7. (a) A tenant may notify the landlord that he or she or
4 a household member was a victim of an act that constitutes an act
5 of domestic violence as defined in Section 6211 of the Family
6 Code, sexual assault as defined in Sections 261, 261.5, 262, 286,
7 288a, or 289 of the Penal Code, or stalking as defined in Section
8 1708.7, and that the tenant intends to terminate the tenancy.

9 (b) A notice to terminate a tenancy under this section shall be
10 in writing, with one of the following attached to the notice:

11 (1) A copy of a temporary restraining order ~~or order~~; emergency
12 protective order; *permanent restraining order*; or *elder abuse* order
13 lawfully issued pursuant to Part 3 (commencing with Section 6240)
14 or Part 4 (commencing with Section 6300) of Division 10 of the
15 Family Code, Section 136.2 of the Penal Code, Section 527.6 of
16 the Code of Civil Procedure, or Section 213.5 of the Welfare and
17 Institutions Code that protects the tenant or household member
18 from further domestic violence, sexual assault, or stalking.

19 (2) A copy of a written report by a peace officer employed by
20 a state or local law enforcement agency acting in his or her official
21 capacity, stating that the tenant or household member has filed a
22 report alleging that he or she or the household member is a victim
23 of domestic violence, sexual assault, or stalking.

24 (c) The notice to terminate the tenancy shall be given within
25 180 days of the date that any order described in paragraph (1) of
26 subdivision (b) was issued, within 180 days of the date that any
27 written report described in paragraph (2) of subdivision (b) was
28 made, or within the time period described in Section 1946.

29 (d) If notice to terminate the tenancy is provided to the landlord
30 under this section, the tenant shall be responsible for payment of
31 rent for 30 days following the giving of the notice, or within the
32 appropriate period as described in Section 1946, and thereafter
33 shall be released from any rent payment obligation under the rental
34 agreement without penalty. Existing law governing the security
35 deposit shall apply.

36 (e) If within the 30 days following the giving of the notice under
37 this section the tenant quits the premises and the premises are
38 rented to another party, the rent due on the premises for that 30-day

1 period shall be prorated. Existing law governing the security
2 deposit shall apply.

3 (f) Nothing in this section relieves a tenant, other than the tenant
4 who is, or who has a household member who is, a victim of
5 domestic violence, sexual assault, or stalking and members of that
6 tenant's household, from their obligations under the rental
7 agreement.

8 (g) "Household member" as used in this section means a member
9 of the tenant's family who lives in the same household as the
10 tenant.

11 *SEC. 2. Section 1161.3 of the Code of Civil Procedure is*
12 *amended to read:*

13 1161.3. (a) Except as provided in subdivision (b), a landlord
14 shall not terminate a tenancy or fail to renew a tenancy based upon
15 an act or acts against a tenant or a tenant's household member that
16 constitute domestic violence as defined in Section 6211 of the
17 Family Code, sexual assault as defined in Section 1219, or stalking
18 as defined in Section 1708.7 of the Civil Code or Section 646.9
19 of the Penal Code, if both of the following apply:

20 (1) The act or acts of domestic violence, sexual assault, or
21 stalking have been documented by one of the following:

22 (A) A temporary restraining ~~order~~ ~~or~~ order, emergency
23 protective order, permanent restraining order, or elder abuse order
24 lawfully issued within the last 180 days pursuant to Section 527.6,
25 Part 3 (commencing with Section 6240), Part 4 (commencing with
26 Section 6300), or Part 5 (commencing with Section 6400) of
27 Division 10 of the Family Code, Section 136.2 of the Penal Code,
28 or Section 213.5 of the Welfare and Institutions Code that protects
29 the tenant or household member from domestic violence, sexual
30 assault, or stalking.

31 (B) A copy of a written report, written within the last 180 days,
32 by a peace officer employed by a state or local law enforcement
33 agency acting in his or her official capacity, stating that the tenant
34 or household member has filed a report alleging that he or she or
35 the household member is a victim of domestic violence, sexual
36 assault, or stalking.

37 (2) The person against whom the protection order has been
38 issued or who was named in the police report of the act or acts of
39 domestic violence, sexual assault, or stalking is not a tenant of the
40 same dwelling unit as the tenant or household member.

(b) A landlord may terminate or decline to renew a tenancy after the tenant has availed himself or herself of the protections afforded by subdivision (a) if both of the following apply:

(1) Either of the following:

(A) The tenant allows the person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, or stalking to visit the property.

(B) The landlord reasonably believes that the presence of the person against whom the protection order has been issued or who was named in the police report of the act or acts of domestic violence, sexual assault, or stalking poses a physical threat to other tenants, guests, invitees, or licensees, or to a tenant's right to quiet possession pursuant to Section 1927 of the Civil Code.

(2) The landlord previously gave at least three days' notice to the tenant to correct a violation of paragraph (1).

(c) Notwithstanding any provision in the lease to the contrary, the landlord shall not be liable to any other tenants for any action that arises due to the landlord's compliance with this section.

(d) For the purposes of this section, "tenant" means tenant, subtenant, lessee, or sublessee.

(e) The Judicial Council shall, on or before January 1, 2012, develop a new form or revise an existing form that may be used by a party to assert in the responsive pleading the grounds set forth in this section as an affirmative defense to an unlawful detainer action.

~~SECTION 1. Section 54952 of the Government Code is amended to read:~~

~~54952. As used in this chapter, "legislative body" means:~~

~~(a) The governing body of a local agency or any other local body created by state or federal statute.~~

~~(b) (1) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance,~~

1 resolution, or formal action of a legislative body are legislative
2 bodies for purposes of this chapter.

3 (2) (A) For purposes of this subdivision, “board” includes an
4 assessment appeals board, including a board of supervisors when
5 sitting as the assessment appeals board, which may meet in closed
6 session, as provided by Section 1605.4 of the Revenue and
7 Taxation Code.

8 (B) The Legislature finds and declares that assessment appeals
9 boards constitute quasi-judicial boards. As such, Sections 54954.3
10 and 54957.5 shall not apply to these boards.

11 (c) (1) A board, commission, committee, or other multimember
12 body that governs a private corporation, limited liability company,
13 or other entity that either:

14 (A) Is created by the elected legislative body in order to exercise
15 authority that may lawfully be delegated by the elected governing
16 body to a private corporation, limited liability company, or other
17 entity.

18 (B) Receives funds from a local agency and the membership of
19 whose governing body includes a member of the legislative body
20 of the local agency appointed to that governing body as a full
21 voting member by the legislative body of the local agency.

22 (2) Notwithstanding subparagraph (B) of paragraph (1), no
23 board, commission, committee, or other multimember body that
24 governs a private corporation, limited liability company, or other
25 entity that receives funds from a local agency and, as of February
26 9, 1996, has a member of the legislative body of the local agency
27 as a full voting member of the governing body of that private
28 corporation, limited liability company, or other entity shall be
29 relieved from the public meeting requirements of this chapter by
30 virtue of a change in status of the full voting member to a
31 nonvoting member.

32 (d) The lessee of any hospital the whole or part of which is first
33 leased pursuant to subdivision (p) of Section 32121 of the Health
34 and Safety Code after January 1, 1994, where the lessee exercises
35 any material authority of a legislative body of a local agency
36 delegated to it by that legislative body whether the lessee is
37 organized and operated by the local agency or by a delegated
38 authority.

39 SEC. 2. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

4 ~~SEC. 3. This act is an urgency statute necessary for the~~
5 ~~immediate preservation of the public peace, health, or safety within~~
6 ~~the meaning of Article IV of the Constitution and shall go into~~
7 ~~immediate effect. The facts constituting the necessity are:~~

8 ~~Subjecting property tax assessment appeal boards to the~~
9 ~~requirements of the Ralph M. Brown Act will ensure that the public~~
10 ~~is appropriately noticed regarding board meetings and increase~~
11 ~~governmental transparency as it relates to actions of the boards;~~
12 ~~as such, it is necessary for this act to take effect immediately.~~

13 *SEC. 3. This act is an urgency statute necessary for the*
14 *immediate preservation of the public peace, health, or safety within*
15 *the meaning of Article IV of the Constitution and shall go into*
16 *immediate effect. The facts constituting the necessity are:*

17 *In order to ensure improved protection against domestic violence*
18 *and elder abuse in this state, it is necessary for this act to take*
19 *effect immediately.*